

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

WILLIAM RANDY KNOTT,)	
)	
Plaintiff,)	4:06CV3201
)	
v.)	
)	
HARDSTEEL PRODUCTION, and)	MEMORANDUM AND ORDER
HARDSTEEL ERECTION,)	
)	
Defendants.)	
)	

The defendants have filed a motion to change the place of trial from Lincoln to Omaha. Filing 8. The plaintiff has not responded to the motion, and the response time has expired. The motion is therefore deemed submitted.

At the time of filing, the plaintiff requested Lincoln, Nebraska as the place of trial. Filing 1. The defendants argue the case should be tried in Omaha for the convenience of the witnesses and parties, and to permit the parties to subpoena material witnesses for attendance at trial. Specifically, the defendants' evidence establishes:

- The defendants' principal place of business, their employees and officers who may be witnesses, and some non-party witnesses are located in Decatur, Nebraska. Decatur is 66 miles north of Omaha, but 122 miles from Lincoln.
- Some non-party witnesses are located in Onawa, Iowa, which is within the 100 mile subpoena authority of an Omaha trial location, (see Fed. R. Civ. P. 45 (b)(2)), but beyond 100 miles from Lincoln.

The court further notes that counsel for the defendants are from Omaha, and counsel for the plaintiff is from Topeka, Kansas, which is no closer to Lincoln than to Omaha. The plaintiff is

from Onaga, Kansas, (see filing 1, (complaint), ¶ 2), which is only 30 miles closer to Lincoln than Omaha.

The court must consider the convenience of the litigants, witnesses, and counsel when resolving conflicting requests for place of trial. NELR 40.1(a)(1)(D). Under the totality of the facts before me, I find Omaha is the more convenient trial location. The defendants' motion to change the place of trial shall be granted.

IT THEREFORE HEREBY IS ORDERED:

- a. Defendants' motion for change of trial location, filing 8, is granted. Trial of this case shall be held in Omaha, Nebraska.
- b. The clerk shall cause the case to be reassigned to Omaha district and magistrate judges.

DATED this 1st day of November, 2006.

BY THE COURT:

s/ *David L. Piester*

David L. Piester
United States Magistrate Judge